BRIEF IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI.

I.

Opinion of Court Below.

The opinion of the Supreme Court of the State of Illinois appears in full in the record (R. 131). No formal opinion was rendered by the Circuit Court of Piatt County, Illinois.

II.

Jurisdiction.

The jurisdiction of this Court is invoked under Section 237 (b) of the Judicial Code, as amended by Act of February 13, 1925, Section 344 (a), Title 28, U. S. C. A.

Dates of Judgment.

The judgment of the Supreme Court of Illinois was rendered January 21, 1943.

The order denying rehearing was dated March 11, 1943.

III.

Statement of Case.

A statement of the pleadings and formal procedures has previously been made in the petition for the writ of certiorari, such matters accordingly not being here repeated. The pleadings, however do disclose the factual situation giving rise to the present amended information, conviction and judgment and we briefly epitomize here the factual situations surrounding the present prosecution. Petitioner, William A. Doss, has been at odds with other practicing attorneys at the bar of his County for several years and as one method of upholding his rights as a practicing lawyer

and informing the public concerning the activities of the prosecution, he commenced about two years ago the publication of the paper or pamphlet known as The Liberty Press. This publication appeared as occasion demanded, and amounted, on the average of approximately four thousand copies of each issue. It was distributed by carrier boys who deposited the same upon the porches of the homes of the citizens of Piatt County, Illinois, and was mailed by a staff of high school girls who worked from mailing lists which included all prominent citizens of the County, public officials, supervisors, Judges, clerks, highway commissioners, and persons of influence in the County. Suffice to say that the publisher in every publication felt at liberty and duty bound to speak his mind freely, and whenever necessary or expedient, deemed it proper to give in detail facts, figures, dates, records, and witnesses disclosing improper conduct, unfair dealings, untruthful statements, coersion, intimidation and unethical practice on the part of the other members of the bar, including the State's Attorney of Piatt County, Illinois, Carl I. Glasgow, between whom and the petitioner there existed a feeling of personal animosity. Petitioner openingly stated in several publications that the State's Attorney, Carl I. Glasgow, was a disreputable person and an unfair prosecutor, giving in each instance illustrations in detail justifying such accusation. In various issues of the Liberty Press the petitioner openingly invited civil suit for damages at the hands of the State's Attorney or any other person who considered himself damaged by such publications and specifically stating if, as and when such damage suit should be instituted by any aggrieved person, he, the petitioner, would prove the truth of the charges so made in his publication and that same was published for justifiable ends and without malice is a complete defense in the State of Illinois. Civil

suits for damages have never been instituted but the State's Attorney has resorted to the present information for contempt of court as being a safe manner in which to strike back at the petitioner. Being himself the complaining witness before any Grand Jury, it was necessary that a Special State's Attorney be appointed to conduct any Grand Jury proceedings against the petitioner. A special order was obtained appointing Oliver D. Mann, a practicing lawyer of a neighboring city as Special State's Attorney to conduct the ensuing Grand Jury proceedings and investigation, but such order limited the proceedings of such Grand Jury to the single task of investigating and indicting the petitioner. In other words, the Grand Jury was not called to investigate all crimes and misdemeanors in Piatt County, but was called and specifically charged with the sole and only purpose of indicting the petitioner, William A. Doss. Upon being informed of the nature and purpose of this special Grand Jury proceedings, the petitioner availed himself of the only known method of informing the public of the ulterior aims and purposes of the opposition, namely, by issuing special numbers of his newspaper. The verified answer of the petitioner to the amended information disclosed without contradiction that no special effort was made to place those publications in the hands of the Grand Jury, but that the same were mailed and delivered by carrier boys in the same manner as the same had always been so mailed and delivered. It may be conceded that the language of the publications is intemperate, vitriolic at times and extremely pointed in many instances, but the intemperate nature of the articles and the pointedness of the statements therein contained, are not charged as being in and of themselves contemptuous; the information is predicated upon the thought that the articles did reach the hands of the Grand Jurors and necessarily therefore influenced the

actions of the Grand Jury, interfered with the processes of the court and the due administration of justice.

The above statements are made without reference to record pages for the reason that the circumstances of the above statements will readily appear throughout the entire record by a mere reading thereof.

IV.

Specifications of Error.

(1) The Supreme Court of the State of Illinois erred in affirming the judgment, conviction, fine and sentence of the Circuit Court of Piatt County, Illinois.

(2) The Supreme Court of the State of Illinois erred in affirming the judgment of the Circuit Court of Piatt County, Illinois, in that the Circuit Court of Piatt County, Illinois, denied to the petitioner due process of law, namely, the right to purge himself of the charged contempt of court by his own verified answer.

(3) The Supreme Court of the State of Illinois erred in holding that petitioner was guilty of contempt of the Circuit Court of Piatt County, by the mere publication of the articles appended to the amended information, thereby denying to the petitioner the right of freedom of speech and freedom of the press guaranteed by both the Federal and State Constitutions.

(4) The Supreme Court of the State of Illinois erred in sustaining the action of the trial court in its finding that the publications in question had interfered with the administration of justice and the Grand Jury proceedings in question.

(5) The Supreme Court of the State of Illinois erred in finding (contrary to the verified answer of the accused)

that the petitioner, "delivered or caused to be delivered a copy of each of them (the publications in question) to the foreman and the majority of the members of the Grand Jury."

(6) The Supreme Court of the State of Illinois erred in finding that, "the language of the excerpts is intemperate in the extreme, and consists largely of accusations against the members of the bar of Piatt County, and also attacks against the State's Attorney of the County, and also, the special State's Attorney, who was appointed special prosecutor to act with reference to the questions concerning the alleged violations of the criminal libel law by the defendant", in that such finding discloses that the Supreme Court of the State of Illinois has seemingly misconstrued the gist of the charge with the intemperate nature of the language used. The nature of the language used forms no part of the charged contempt. The contempt, as alleged in the information, consists solely of the delivery of the publications to the Grand Jurors.

(7) The Supreme Court of the State of Illinois erred in denying to the petitioner, the freedom of speech and of the press guaranteed to him by law.

Argument.

It is the opinion of petitioner that the instant case involves the precise issue involved in the case of *Bridges* v. *State of California,* decided by this court and appearing in 314 U. S. 252 (86 L. ed. 192). There is, and can be found, between the facts in the instant case and the facts in the foregoing decision, no possible distinction. In this case, as in the Bridges case, certain publications and statements were charged as constituting contempt of court and as inter-

fering with the due and proper administration of justice. In both cases, the charged contempt was indirect, not in the presence of the court. In the *Bridges* case, the published articles were charged to be in the nature of threats or intimidation of the presiding Judge. In the instant case the publications and statements were charged to have been coercive, critical and intimidating of a Grand Jury then in session. The issue of freedom of speech and of the press, was precisely raised by the petitioner in the trial court and in the assignments of error in the reviewing court, namely the Supreme Court of the State of Illinois. In the affidavits by which the petitioner answers the information in the State of Illinois, he admitted the publications, but denied that the same were intended by him to interfere with, coerce, or intimidate the court or the Grand Jury. In fact, a reading of the articles will convince this court that the same were not critical of either the court itself or the Grand Jury. The sole purport of the publications was to the effect that the Grand Jury should perform its whole duty and that it should, while in session, conduct an investigation concerning the activities and wrong doings of one Carl I. Glasgow, State's Attorney of Piatt County, Illinois. The activities and wrongdoings of said Carl I. Glasgow were detailed in the publications in vituperative and sarcastic language. The attack made by the publications as against said Glasgow, because of their viciousness may or may not be held libelous as against Glasgow, but nowhere in the published articles is any disrespect of the court displayed, nor anything intended to retard, influence or interfere with the legitimate duties of the Grand Jury.

We remind the court that we are not dealing in the instant petition with the question of libel or slander, nor with the question of whether the publications might be the basis

of a criminal prosecution. The only issue raised by the pleading was as to whether the published articles were intended to interfere with the due process of the Circuit Court of Piatt County, or its Grand Jury. This, as previously stated, was and is the identical point involved in the case of the *State of California* v. *Bridges,* and we accordingly find ourselves in a position where the instant conviction of the petitioner cannot be sustained unless the Bridges decision be reversed, and conversely, that if the Bridges decision be followed, then the conviction of petitioner must be set aside.

There is involved in the instant petition a conflict between the opposing rights of petitioner under the Constitution, to speak and write freely upon all subjects, and the opposing theory or right of a Court to be free and untrammeled in the administration of justice.

The same authorities presented in the Bridges case, and the same argument and discussion could be here repeated, but since such discussion and authorities would constitute mere repetition, we do not consider that it is here necessary to indulge such repetition. In lieu thereof, we invite a reading and consideration of the law, the authorities and the reasoning of the Bridges case.

We assert that it is the holding of the Bridges case and of this Court, that a contempt of court proceedings is no longer countenanced when the same interferes with the Constitutional right of a citizen to speak an write freely and that the sentence and fine meted out to the petitioner by the Circuit court of Piatt County, Illinois, and the affirmance thereof by the Supreme Court of the State of Illinois, should be reversed and set aside.

Conclusion

Wherefore it is respectfully submitted that the petitioner has been aggrieved by the decision of the Supreme Court of the State of Illinois, and that this case should be certified to this Court for its review and deterimnation.

Respectfully submitted,

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